

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

STANLEY LEE BROWN, JR., et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action: 6:24cv00039
)	
THE CITY OF LYNCHBURG, et al.,)	
)	
Defendants.)	

**DEFENDANT CITY OF LYNCHBURG’S REPLY BRIEF IN SUPPORT OF
MOTION TO DISMISS**

Defendant City of Lynchburg, Virginia, by counsel, respectfully submits this reply brief in support of its motion to dismiss the First Amended Complaint.

ARGUMENT

Plaintiffs assert that their unsubstantiated allegations that a single officer conducted four unconstitutional body cavity searches over a span of two years, and their conclusory allegations the City of Lynchburg was “on notice” of this “pattern of conduct” but did nothing to stop it, are sufficient to state a plausible *Monell* claim against the City for unconstitutional custom or practice. The Fourth Circuit would disagree.

In *Carter v. Morris*, 164 F.3d 215, 220 (4th Cir. 1999), the Fourth Circuit held that a “meager history of isolated incidents” does not establish a municipal custom. A Maryland District Court considering similar allegations found them to be insufficient. “The existence of a total of three isolated incidents (including Plaintiff’s incident) does not demonstrate sufficient duration or frequency to impute constructive knowledge of a custom of brutality to the County.” *McDonnell v. Hewitt-Angleberger*, 2012 U.S. Dist. LEXIS 54948, *8, 2012 WL 1378636. Here, Plaintiffs have alleged “meager history” of five isolated incidents including their own.

Accordingly, Plaintiffs' allegations are insufficient to state a plausible *Monell* claim against the City, and these claims in Counts 7 and 14 should be dismissed.

CONCLUSION

For the foregoing reasons, Defendant City of Lynchburg respectfully moves for dismissal from the First Amended Complaint.

CITY OF LYNCHBURG

By: /s/ John R. Fitzgerald

Jim H. Guynn, Jr. (VSB #22299)

John R. Fitzgerald (VSB #98921)

GUYNN WADDELL, P.C.

415 S. College Avenue

Salem, Virginia 24153

Phone: 540-387-2320

Fax: 540-389-2350

Email: jimg@guynnwaddell.com

johnf@guynnwaddell.com

*Counsel for City of Lynchburg and
Officer Garrett Waterman*

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of November, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to:

M. Paul Valois
James River Legal Associates
7601 Timberlake Road
Lynchburg, VA 24502
Phone: (434) 845-4529
Fax: (434) 845-8536
Email: mvalois@vbclegal.com
Counsel for Plaintiffs

/s/ John R. Fitzgerald
Jim H. Guynn, Jr. (VSB #22299)
John R. Fitzgerald (VSB #98921)
GUYNN WADDELL, P.C.
415 S. College Avenue
Salem, Virginia 24153
Phone: 540-387-2320
Fax: 540-389-2350
Email: jimg@guynnwaddell.com
johnf@guynnwaddell.com
*Counsel for City of Lynchburg and
Officer Garrett Waterman*